

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 Robert J. Mondschein, M.D.

4 Holder of License No. 32344
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-13-1286A

ORDER FOR LETTER OF REPRIMAND
AND PROBATION AND CONSENT TO
THE SAME

7 Robert J. Mondschein, M.D. ("Respondent") elects to permanently waive any right
8 to a hearing and appeal with respect to this Order for Letter of Reprimand and Probation;
9 admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of
10 this Order by the Board.

11 **FINDINGS OF FACT**

12 1. The Board is the duly constituted authority for the regulation and control of
13 the practice of allopathic medicine in the State of Arizona.

14 2. Respondent is the holder of license number 32344 for the practice of
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-13-1266A after receiving notification
17 from the Physician Health Program (PHP) that Respondent received a DUI on November
18 3, 2013 and was suicidal.

19 4. On January 5, 2009, Respondent entered into a confidential Stipulated
20 Rehabilitation Agreement (SRA) for participation in the Physician Health Program (PHP)
21 for a period of two years after he was diagnosed with opioid abuse, anxiolytic abuse,
22 steroid abuse, and body dysmorphic disorder. In addition to the standard PHP terms,
23 Respondent's SRA required psychiatric monitoring and psychotherapy. Respondent was
24 compliant with the terms and conditions of the SRA, and on January 6, 2011, the
25 Agreement was terminated.

1 5. On April 26, 2013, Respondent's Attorney reported to the Board that
2 Respondent received a DUI on April 25, 2013. Respondent was referred to PHP who
3 recommended that the physician undergo chemical dependency treatment. Respondent
4 presented to an Inpatient treatment center and successfully completed treatment on
5 August 13, 2013. On September 10, 2013, Respondent entered into a confidential 5 year
6 SRA and was required to undergo monitoring by a psychiatrist, psychotherapist, and an
7 endocrinologist.

8 6. On November 5, 2013, the PHP Contractor reported to Board staff that on
9 November 3, 2013, Respondent received a DUI. It was noted that on November 4, 2013,
10 Respondent was admitted to another Inpatient treatment center for psychiatric care and
11 was discharged one week later. PHP recommended that following discharge, Respondent
12 should be required to complete long-term residential treatment for his substance
13 dependence and psychiatric issues. The PHP determined that Respondent was not safe to
14 practice at that time.

15 7. On November 19, 2013, Respondent entered into an Interim Consent
16 Agreement for Practice Restriction. On February 11, 2014, the PHP reported that
17 Respondent was successfully discharged from treatment on February 10, 2014. The PHP
18 reported that Respondent was safe to practice with participation in PHP for a period of five
19 years.

20 8. On March 4, 2014, Respondent entered into an Interim Consent Agreement
21 for PHP participation. In addition to the standard terms of the Interim Order for PHP
22 participation, Respondent is required to undergo monitoring by psychiatry, psychotherapy,
23 and a hormone replacement physician. Board staff reports that Respondent is in
24 compliance with the terms of the Interim Order to participate in PHP.

25

1 **CONCLUSIONS OF LAW**

2 1. The Board possesses jurisdiction over the subject matter hereof and over
3 Respondent.

4 2. The conduct and circumstances described above constitute unprofessional
5 conduct pursuant to A.R.S. § 32-1401(27)(f) ("[h]abitual intemperance in the use of alcohol
6 or habitual substance abuse.").

7 3. The conduct and circumstances described above constitute unprofessional
8 conduct pursuant to A.R.S. § 32-1401(27)(r) ("[v]iolating a formal order, probation, consent
9 agreement or stipulation issued or entered into by the board or its executive director under
10 the provisions of this chapter.").

11 **ORDER**

12 **IT IS HEREBY ORDERED THAT:**

13 1. Respondent is issued a Letter of Reprimand.

14 2. Respondent's license is placed on Probation for five years and is subject to
15 his continued participation¹ in the Board's Physician Health Program ("PHP") and
16 compliance with the following terms and conditions:

17 A. Respondent shall not consume alcohol or any food or other substance
18 containing poppy seeds or alcohol. Respondent shall not take any illegal drugs or mood
19 altering medications.

20 B. Respondent shall attend the PHP's relapse prevention group therapy
21 sessions one time per week for the duration of this Order, unless excused by the relapse
22 prevention group facilitator for good cause. Individual relapse therapy may be substituted
23 for one or more of the group therapy sessions, if PHP pre-approves substitution. The
24

25 ¹ Respondent's PHP participation is retroactive to March 4, 2014.

1 relapse prevention group facilitators or individual relapse prevention therapist shall submit
2 monthly reports to the PHP regarding attendance and progress.

3 C. If requested by the PHP, Respondent shall attend ninety 12-step
4 meetings or other self-help group meetings appropriate for substance abuse and approved
5 by the PHP, for a period of ninety days. Upon completion of the ninety meetings in ninety
6 days, Respondent shall participate in a 12-step recovery program or other self-help
7 program appropriate for substance abuse as recommended by the PHP. Respondent shall
8 attend a minimum of three 12-step or other self-help program meetings per week. Two
9 meetings per month must be Caduceus meetings. Respondent must maintain a log of all
10 self-help meetings.

11 D. Respondent shall promptly obtain a primary care physician ("PCP") and
12 shall submit the name of the physician to the PHP in writing for approval. The approved
13 PCP shall be in charge of providing and coordinating Respondent's medical care and
14 treatment. Except in an Emergency, Respondent shall obtain medical care and treatment
15 only from the PCP and from health care providers to whom the PCP refers Respondent.
16 Respondent shall promptly provide a copy of this Order to the PCP. Respondent shall also
17 inform all other health care providers who provide medical care or treatment that
18 Respondent is participating in PHP. "Emergency" means a serious accident or sudden
19 illness that, if not treated immediately, may result in a long-term medical problem or loss of
20 life.

21 E. All prescriptions for controlled substances shall be approved by the PHP
22 prior to being filled except in an Emergency. Controlled substances prescribed and filled in
23 an emergency shall be reported to the PHP within 48 hours. Respondent shall take no
24 Medication unless the PCP or other health care provider to whom the PCP refers
25 Respondent prescribes and the PHP approves the Medication. Respondent shall not self-

1 prescribe any Medication. "Medication" means a prescription-only drug, controlled
2 substance, and over-the counter preparation, other than plain aspirin, plain ibuprofen, and
3 plain acetaminophen. Respondent shall submit to random biological fluid, hair and nail
4 testing for two years from the date of this Order (as specifically directed below) to ensure
5 compliance with PHP.

6 F. Respondent shall provide the PHP in writing with one telephone number
7 that shall be used to contact Respondent on a 24 hour per day/seven day per week basis
8 to submit to biological fluid, hair and nail testing to ensure compliance with PHP. For the
9 purposes of this section, telephonic notice shall be deemed given at the time a message to
10 appear is left at the contact telephone number provided by Respondent. Respondent
11 authorizes any person or organization conducting tests on the collected samples to
12 provide testing results to the PHP. Respondent shall comply with all requirements for
13 biological fluid, hair and nail collection. Respondent shall pay for all costs for the testing.

14 G. Respondent shall provide the PHP with written notice of any plans to
15 travel out of state.

16 H. Respondent shall immediately notify the Board and the PHP in writing of
17 any change in office or home addresses and telephone numbers.

18 I. Respondent provides full consent for the PHP to discuss the
19 Respondent's case with the Respondent's PCP or any other health care providers to
20 ensure compliance with PHP.

21 J. The relationship between the Respondent and the PHP is a direct
22 relationship. Respondent shall not use an attorney or other intermediary to communicate
23 with the PHP on participation and compliance issues.

24 K. Respondent shall be responsible for all costs, including PHP costs
25 associated with participating in PHP at the time service is rendered, or within 30 days of

1 each invoice sent to the Respondent. An initial deposit of two months PHP fees is due
2 upon entering the program. Failure to pay either the initial PHP deposit or monthly fees 60
3 days after invoicing will be reported to the Board by the PHP and may result in disciplinary
4 action up to and including license revocation.

5 L. Respondent shall immediately provide a copy of this Order to all
6 employers, hospitals and free standing surgery centers where Respondent currently has
7 or in the future gains employment or privileges. Within 30 days of the date of this Order,
8 Respondent shall provide the PHP with a signed statement of compliance with this
9 notification requirement. Respondent is further required to notify, in writing, all employers,
10 hospitals and free standing surgery centers where Respondent currently has or in the
11 future gains employment or privileges, of a chemical dependency relapse or violation of
12 this Order.

13 M. In the event Respondent resides or practices in a state other than
14 Arizona, Respondent shall participate in the rehabilitation program sponsored by that
15 state's medical licensing authority or medical society. Respondent shall cause the
16 monitoring state's program to provide written quarterly reports to the PHP regarding
17 Respondent's attendance, participation, and monitoring. The monitoring state's program
18 and Respondent shall immediately notify the PHP if Respondent: a) is non-compliant with
19 any aspect of the monitoring requirements; b) relapses; c) tests positive for controlled
20 substances; d) has low specific gravity urine drug test(s), missed and/or late urine drug
21 tests, or otherwise rejected urine drug tests; and e) is required to undergo any additional
22 treatment.

23 N. The PHP shall immediately notify the Board if Respondent: a) is non-
24 compliant with any aspect of this Order; b) relapses; c) tests positive for controlled
25 substances; d) has low specific gravity urine drug test(s), missed and/or late urine drug

1 tests, or otherwise rejected urine drug tests; and e) is required to undergo any additional
2 treatment.

3 O. In the event of chemical dependency relapse by Respondent or
4 Respondent's use of drugs or alcohol in violation of the Order, Respondent's license shall
5 be summarily suspended pending a hearing for revocation. In the alternative,
6 Respondent may **SURRENDER HIS LICENSE** if he agrees in writing to being impaired by
7 alcohol or drug abuse. A.R.S. § 32-1452(G).

8 P. Respondent shall immediately obtain a treating psychiatrist,
9 psychotherapist, and hormone replacement physician approved by the Monitor and shall
10 remain in treatment with the psychiatrist, psychotherapist, and hormone replacement
11 physician until further instructed. Respondent shall instruct the psychiatrist,
12 psychotherapist, and hormone replacement physician to release to the Monitor, upon
13 request, all records relating to Respondent's treatment, and to submit quarterly written
14 reports to the Monitor regarding diagnosis, prognosis, medications, and recommendations
15 for continuing care and treatment of Respondent. Respondent shall provide the
16 psychiatrist, psychotherapist, and hormone replacement physician with a copy of this
17 order. Respondent shall pay the expenses of all the psychiatric, psychotherapist, and
18 hormone replacement physician care and for the preparation of the quarterly reports. After
19 twelve months, Respondent may submit a written request to the Monitor requesting
20 termination of the requirement that Respondent remain in treatment with a psychiatrist,
21 psychotherapist, and hormone replacement physician. The decision to terminate will be
22 based, in part, upon the treating psychiatrist's, psychotherapist's, and hormone
23 replacement physician's recommendation for continued care and treatment.

24 Q. Respondent shall obey all federal, state and local laws, and all rules
25 governing the practice of medicine in the State of Arizona.

1 R. Respondent shall appear in person before the Board and/or its staff and
2 PHP for interviews upon request, with reasonable notice.

3 S. This Order supersedes all previous consent agreements and stipulations
4 between the Board and/or the Executive Director and Respondent.

5 T. The Board retains jurisdiction and may initiate new action based upon any
6 violation of this Order.

7 U. Prior to the termination of Probation, Respondent must submit a written
8 request to the Board for release from the terms of this Order. Respondent's request for
9 release will be placed on the next pending Board agenda, provided a complete submission
10 is received by Board staff no less than 14 days prior to the Board meeting. Respondent's
11 request for release must provide the Board with evidence establishing that he has
12 successfully satisfied all of the terms and conditions of this Order. The Board has the sole
13 discretion to determine whether all of the terms and conditions of this Order have been
14 met or whether to take any other action that is consistent with its statutory and regulatory
15 authority.
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17
18 DATED AND EFFECTIVE this 3rd day of December, 2014.

19 ARIZONA MEDICAL BOARD

20
21 By Patricia E. McSorley
22 Patricia E. McSorley
23 Interim Acting Executive Director
24
25

CONSENT TO ENTRY OF ORDER

1
2 1. Respondent has read and understands this Consent Agreement and the
3 stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent
4 acknowledges he has the right to consult with legal counsel regarding this matter.

5 2. Respondent acknowledges and agrees that this Order is entered into freely
6 and voluntarily and that no promise was made or coercion used to induce such entry.

7 3. By consenting to this Order, Respondent voluntarily relinquishes any rights to
8 a hearing or judicial review in state or federal court on the matters alleged, or to challenge
9 this Order in its entirety as issued by the Board, and waives any other cause of action
10 related thereto or arising from said Order.

11 4. The Order is not effective until approved by the Board and signed by its
12 Executive Director.

13 5. All admissions made by Respondent are solely for final disposition of this
14 matter and any subsequent related administrative proceedings or civil litigation involving
15 the Board and Respondent. Therefore, said admissions by Respondent are not intended
16 or made for any other use, such as in the context of another state or federal government
17 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
18 any other state or federal court.

19 6. Upon signing this agreement, and returning this document (or a copy thereof)
20 to the Board's Executive Director, Respondent may not revoke the consent to the entry of
21 the Order. Respondent may not make any modifications to the document. Any
22 modifications to this original document are ineffective and void unless mutually approved
23 by the parties.
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1 7. This Order is a public record that will be publicly disseminated as a formal
2 disciplinary action of the Board and will be reported to the National Practitioner's Data
3 Bank and on the Board's web site as a disciplinary action.

4 8. If any part of the Order is later declared void or otherwise unenforceable, the
5 remainder of the Order in its entirety shall remain in force and effect.

6 9. If the Board does not adopt this Order, Respondent will not assert as a
7 defense that the Board's consideration of the Order constitutes bias, prejudice,
8 prejudgment or other similar defense.

9 10. Any violation of this Order constitutes unprofessional conduct and may result
10 in disciplinary action. A.R.S. § § 32-1401(27)(r) ("violating a formal order, probation,
11 consent agreement or stipulation issued or entered into by the board or its executive
12 director under this chapter") and 32-1451.

13 11. *Respondent has read and understands the conditions of probation.*

14 
15 Robert J. Mondscheln, M.D.

DATED: 11/14/14

16 EXECUTED COPY of the foregoing mailed
17 this 3rd day of December, 2014 to:

18 Calvin Raup
19 Ridenour Henton & Lewis PLLC
20 201 N Central Avenue Ste 3300
Phoenix AZ 85004
Attorney for Respondent

21 ORIGINAL of the foregoing filed
22 this 3rd day of December, 2014 with:

23 Arizona Medical Board
24 9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

25 
Arizona Medical Board Staff